

SENATE RECORD VOTE ANALYSIS

105th Congress
1st Session

Vote No. 54

April 30, 1997, 5:00 pm
Page S-3841 Temp. Record

HERMAN NOMINATION/Secretary of Labor

SUBJECT: Nomination of Alexis M. Herman, of Alabama, to be Secretary of Labor. Confirmation.

ACTION: NOMINATION CONFIRMED, 85-13

SYNOPSIS: Alexis M. Herman, of Alabama, was born July 16, 1947 in Mobile, Alabama. She received a BA from Xavier University in 1969. Her employment history includes the following: 1969-1972, Outreach Worker, Catholic Social Services/Recruitment & Training Programs, Inc.; 1972-1974, Director, Black Women Employment Program, Southern Regional Council; 1973-1974, Consultant, Recruitment & Training Program, Inc.; 1974-1977, National Director of Women's Programs, Minority Women Employment Program, Recruitment & Training Program, Inc.; 1977-1981, Deputy Undersecretary/Director, Women's Bureau, United States Department of Labor; 1981-1985, Vice President, Green, Herman, & Associates; 1985-1993, President, A.M. Herman & Associates; 1989-1991, Chief of Staff, Democratic National Committee; 1991-1992, Deputy Chair, Democratic National Committee; 1991-1992, Democratic National Convention Committee; 1992-1993, Deputy Director, Presidential Transition Office; 1993-present, Assistant to the President & Director of Public Liaison.

Those favoring confirmation contended:

Argument 1:

To be appointed and confirmed as the Secretary of Labor is one of the greatest honors that our Nation can bestow upon an individual. It is an honor, however, that comes with a heavy burden of responsibility. Individuals who hold this office become stewards of the public trust and bear a great responsibility to the working men and women of America. It is our hope and sincere expectation that Alexis Herman will preserve this trust and serve our country ably and effectively as Secretary of Labor.

Ms. Herman will take the helm of the Department of Labor at a critical juncture in its history. The passage of welfare reform has

(See other side)

YEAS (85)				NAYS (13)		NOT VOTING (2)	
Republican (42 or 76%)		Democrats (43 or 100%)		Republicans (13 or 24%)	Democrats (0 or 0%)	Republicans (0)	Democrats (2)
Abraham	Hutchinson	Akaka	Johnson	Allard			Inouye- ²
Ashcroft	Hutchison	Baucus	Kennedy	Campbell			Moynihan- ^{2AY}
Bennett	Jeffords	Biden	Kerrey	Craig			
Bond	Kempthorne	Bingaman	Kerry	Faircloth			
Brownback	Kyl	Boxer	Kohl	Gramm			
Burns	Lott	Breaux	Landrieu	Hagel			
Chafee	Mack	Bryan	Lautenberg	Helms			
Coats	McCain	Bumpers	Leahy	Inhofe			
Cochran	McConnell	Byrd	Levin	Lugar			
Collins	Murkowski	Cleland	Lieberman	Roberts			
Coverdell	Nickles	Conrad	Mikulski	Smith, Bob			
D'Amato	Roth	Daschle	Moseley-Braun	Thomas			
DeWine	Santorum	Dodd	Murray	Thompson			
Domenici	Sessions	Dorgan	Reed				
Enzi	Shelby	Durbin	Reid				
Frist	Smith, Gordon	Feingold	Robb				
Gorton	Snowe	Feinstein	Rockefeller				
Grams	Specter	Ford	Sarbanes				
Grassley	Stevens	Glenn	Torricelli				
Gregg	Thurmond	Graham	Wellstone				
Hatch	Warner	Harkin	Wyden				
		Hollings					

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

made the strengthening of our job-training programs more important than ever. People must be able to obtain skills that will lead to secure jobs. Additionally, in our modern economy, it has become normal to hold six or seven jobs over the course of a career. Long gone are the days when someone could graduate from high-school and get a lifetime job at a local factory. The United States needs someone of great energy and skill to help working Americans find work and stay working in the modern, uncertain workplace. Ms. Herman's background indicates that she is such a person. After graduating from Xavier University, she got a job as a social worker in Mobile Alabama. On this job, she came to realize that a lack of skills and opportunities was keeping many of Mobile's black citizens from achieving their full potential. She then ran a pilot program in Atlanta, Georgia, to place black women in white collar positions. During its first year of operation, that project placed more African-American women in management positions in Atlanta than the U.S. Employment Service had placed in its entire history in the city. In 1977, Ms. Herman was appointed by President Carter to be the first black woman to lead the Women's Bureau. She later worked on the 1988 presidential campaign of Reverend Jackson and on the 1992 campaign of President Clinton. In 1992 she became head of the White House public liaison office. This record of public service indicates that she will do well as Secretary of Labor.

However, her most recent position required the Senate to give more detailed examination than normal because of very troubling ethical and legal questions. The Office of Public Liaison is under very active scrutiny by the Office of Special Counsel due to its reported role in White House fundraising activities. After reviewing this matter, we concluded that there was not sufficient evidence available to cause us concern over her being appointed as Secretary of Labor. After the delay caused by the necessity to give more careful scrutiny to this nominee, President Clinton announced that he intended to issue a highly controversial Executive Order that would have effectively required the consideration of union contractors only for construction projects paid in whole or in part by the Federal Government. That announcement resulted in holds being placed on this nomination. The Labor Department regularly advises the National Labor Relations Board (NLRB), and the NLRB would have been at the heart of disputes arising from any such Executive Order. President Clinton's announcement had embroiled Ms. Herman in another controversy.

The proposed Executive Order would have effectively mandated that Public Owner Project Labor Agreements (PLAs) be negotiated for all construction projects funded in whole or in part by the Federal Government. Bidders for any project would have had to abide by the PLAs. PLAs are usually negotiated between Federal agencies and unions, and they contain such requirements as all workers on the projects must be union members and must pay union dues. Supposedly, those companies that are not unionized (more than 80 percent of all construction workers in America do not belong to unions) are still be allowed to bid on projects, but if they win they have to hire all new union work crews or their workers first have to join unions and then abide by strict union rules on employer-employee relations. Though there are a few exceptions, on average union projects cost 20 percent more than non-union projects. If the Clinton Executive Order had gone into effect, \$200 billion worth of projects annually would have been set aside for the 20 percent of construction workers who are in unions, and the taxpayers would have had to pay the higher costs.

The legality, and the constitutionality, of this proposed Executive Order were both extremely questionable. The courts have gradually moved in the direction of saying that PLAs are legal in very limited, proprietary circumstances, when for a particular project they can be shown to be in the best interest of the public, but that they are illegal when they are regulatory in nature. When they are regulatory, they are not in conformance with the National Labor Relations Act. Further, we contend that without legislative authority, it would have been unconstitutional for the Executive Branch to issue such a sweeping change in public policy. Thankfully, though, the President just agreed to compromise on this issue. Instead of issuing an Executive Order, he has agreed that he will issue a non-binding memorandum encouraging Federal agencies to enter into PLAs for construction projects.

Now that this agreement has been reached, the last impediment to the Herman nomination has been removed. Alexis Herman will perform well as Secretary of Labor. We are pleased finally to be able to vote in favor of her confirmation.

Argument 2:

We agree with our colleagues on the merit of this nominee, but we disagree with their contention that there was any reason for the vote on her confirmation to be delayed for so long. We especially take issue with their statements on PLAs. PLAs are legal, and we believe that President Clinton would be well within his rights to issue an Executive Order encouraging Federal agencies to enter into them. PLAs result in projects being completed in a timely fashion, without strikes, and without cost overruns. A prime example is the Boston Harbor project, which is coming in well under its originally expected costs. Incidentally, many of the subcontractors on that project are non-union contractors, which refutes our colleagues' claim that PLAs only benefit unionized companies. That issue aside, we are delighted to have the opportunity to vote to confirm Alexis Herman.

No arguments were expressed in opposition to confirmation.